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January 14, 2015

BY FACSIMILE: 212-805-6737

The Honorable George B. Daniels
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Absolute Activist Value Master Fund Ltd. et al. v. Florian Homm, et al.; Case No. 09 CIV 8862 (GBD)

Dear Judge Daniels:

In response to Ms. Imes' letter of this date regarding when Mr. Homm should be required to answer the complaint in this action, as set forth in the transcript of proceedings of September 23, 2014 attached to that letter, the Court stated that it would revisit the issue at the next conference, "depending [on] what the status is." Tr. at 15. In that the Court has not yet ruled on the Government's unopposed application to continue the stay of discovery until 2016, the status of this matter is not yet determined, and therefore Ms. Imes' request is premature.

May I therefore respectfully suggest that her request be deferred until the Court has ruled on the Government's application. At that time, if Ms. Imes and I are unable to resolve the matter consensually, we can submit it to the Court and make such arguments as may be appropriate on a real, rather than a hypothetical, record. This will cause no prejudice to Ms. Imes' clients since they would not be able to proceed with discovery in any event.

May I also note that while I did, indeed, say on September 18, 2013 that Mr. Homm expected to file counterclaims "similar in many respects to those filed by Mr. Ewing," Imes Letter at 3, as the Court knows, it subsequently dismissed Mr. Ewing's counterclaims. Obviously, my prior statement is no longer operative, and we will have to reconsider whether or not we can file any claims. If Ms. Imes had called me to confer before she sent her letter, this matter, and perhaps others, could have been clarified and possibly resolved.

Accordingly, on behalf of Mr. Homm, we respectfully request that Ms. Imes' application be deferred for the moment, pending further developments and a conference with the Court, if needed.

The Honorable George B. Daniels
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I thank the Court for its consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read 'LG', with a horizontal line extending to the right.

Lance Gotthoffer

cc: All Parties (via email)

LG/sh

ACTIVE: H19313/344014:6599503_1

Howell, Sarah

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Sent: Wednesday, January 14, 2015 3:58 PM
To: Howell, Sarah
Subject: Successful transmission to 12128056737. Re: Absolute Activist Value Master Fund Ltd. et al. v. Florian Homm, et al.; Case No. 09 CIV 8862 (GBD)
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Re: Absolute Activist Value Master Fund Ltd. et al. v. Florian Homm, et al.; Case No. 09 CIV 8862 (GBD)

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